

REMARKS

The above-identified application has been carefully reconsidered in view of the Office Action mailed October 13, 2005. Early and favorable reconsideration and allowance of the application has now presented are respectfully requested.

Responsive to the rejection under 35 U.S.C. § 112 as set forth in paragraphs 1 and 2 of the Office Action, applicant has amended claim 1 to delete therefrom the phrase "of the type". It is therefore respectfully submitted that the rejection under 35 U.S.C. § 112 has been rendered moot.

Claim 1 stands rejected under 35 U.S.C. § 102(e) as being identified by Voris et al. publication number 2002/0192259 ("the Voris et al. publication"). Claims 2, 3, and 4 stand rejected under 35 U.S.C. § 103(a) as being unpatentable under the Voris et al. publication. For the reasons set forth below the foregoing rejections of the applicant's claims as unpatentable over the Voris et al. publication are respectfully traversed.

Referring to the section of the application headed CROSS-REFERENCE TO RELATED APPLICATIONS which appears on page 1 of the application, applicant claims the benefit of application serial number 09/478,907 filed January 7, 2000. Applicant respectfully submits that the use of fipronil in a wide variety of plastic building components for the purpose of preventing insects from entry into buildings is disclosed in application serial number 09/478,907. Thus, applicant is entitled to the filing date of the '907 application, i.e., January 7, 2000, for the use of fipronil in plastic building products to prevent insects from entering buildings.

Applicant admits that the Voris et al. publication discloses the use of fipronil in plastic building products for the purpose of achieving exclusion of insects from buildings. However, the filing date of the '259 patent is December 3, 2001. The Voris et al. publication is a continuation-in-

part of application serial number 09/353,494 which is a continuation of application serial number 09/030,690 filed February 25, 1998. However, application serial number 09/030,690 does not disclose the use of fipronil in plastic building products to achieve exclusion of insects from buildings. Application serial number 09/353,494 likewise does not disclose the use of fipronil for such purpose given the fact that the '494 application is a continuation of the '690 application.

Therefore, it was applicant, not Voris et al., that discovered the benefits of including fipronil in plastic building materials for the purpose of preventing insects from entering buildings. Given the fact that applicant disclosed the use of fipronil for such purpose long before the disclosure thereof by Voris et al., applicant respectfully asserts that the Voris et al publication is not available as a referenced against the present application.

Additionally, the Voris et al. publication does not disclose the specific usages of fipronil bearing plastic building products that are specifically claimed in the present application. Referring to claim 1, the Voris et al. publication does not disclose the step of extruding an insect controlling vapor barrier, nor does the Voris et al. publication disclose the step of securing an insect controlling vapor barrier in engagement with the underside of the floor of a building as is specifically set forth in claim 1 of the present application. To the contrary, the Voris et al. publication discloses in Figures 7 and 9 the preparation of insect controlling slabs 27 which are thereafter deployed beneath the joists of a building which in turn support the floor thereof. Thus, the slabs of the Voris et al. publication are not a vapor barrier and are not secured to the underside of the floor of a building.

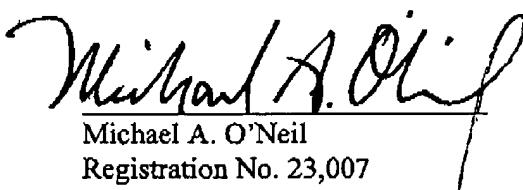
Claims 2, 3, and 4 of the present application each comprise the step of extruding an insect controlling film from an insect controlling feedstock. It is respectfully submitted that the step of extruding an insect controlling film is nowhere disclosed or suggested in the Voris et al. publication.

Claim 2 includes the additional step of securing the insect controlling film to the interior floor surfaces of a building. Claim 3 includes the additional step of securing the insect controlling film to the interior wall surfaces of a building. Claim 4 includes the additional step of wrapping the insect controlling film around the insulation batts and thereafter installing the insulation batts between the structural members of a building. It is respectfully submitted that the foregoing steps are nowhere even remotely hinted at in the Voris et al. publication.

For the foregoing reasons it is respectfully submitted that the application as now presented is in condition for favorable action and allowance. Should the Examiner have any further questions prior to passing the application to issue, the courtesy of a telephone interview is respectfully requested. The Examiner may contact the undersigned for applicant at 214-739-0088.

Respectfully submitted,

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